

**UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO**

In re:

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO, *et al.*,

Debtors.¹

PROMESA
Title III

No. 17 BK 3283-LTS

**Re: ECF Nos. 18602, 21005, 22400,
22682**

(Jointly Administered)

**JOINT STATUS REPORT CONCERNING
COMMUNITY HEALTH FOUNDATION OF P.R. INC.'S MOTION FOR
ALLOWANCE AND PAYMENT OF ADMINISTRATIVE EXPENSE**

To the Honorable United States District Court Judge Laura Taylor Swain:

The Commonwealth of Puerto Rico (the “Commonwealth”), by and through the Financial Oversight and Management Board for Puerto Rico (the “Oversight Board”), as the Commonwealth’s representative pursuant to section 315(b) of the *Puerto Rico Oversight, Management, and Economic Stability Act* (“PROMESA”),² and Community Health Foundation of P.R. Inc. (“CHF” and, together with the Oversight Board, the “Parties”), respectfully submit this

¹ The Debtors in these Title III Cases, along with each Debtor’s respective Title III case number and the last four (4) digits of each Debtor’s federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (Bankruptcy Case No. 17 BK 3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation (“COFINA”) (Bankruptcy Case No. 17 BK 3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority (“HTA”) (Bankruptcy Case No. 17 BK 3567-LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico (“ERS”) (Bankruptcy Case No. 17 BK 3566-LTS) (Last Four Digits of Federal Tax ID: 9686); (v) Puerto Rico Electric Power Authority (“PREPA”) (Bankruptcy Case No. 17 BK 4780-LTS) (Last Four Digits of Federal Tax ID: 3747); and (vi) Puerto Rico Public Building Authority (“PBA”) (Bankruptcy Case No. 19-BK-5523-LTS). (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

² PROMESA has been codified in 48 U.S.C. §§ 2101–2241.

joint status report pursuant to the *Order Setting Deadline for a Status Report Concerning Community Health Foundation of P.R. Inc.'s Motion for Allowance and Payment of Administrative Expense* [ECF No. 22682], stating as follows:

Status Report

I. What Issues, If Any, Remain in Dispute in Connection with the Motion³

1. The issues that remain in dispute consist of three categories of facts: 1) the “PPS” rates for the years 2020 and 2021; 2) the number of eligible Medicaid visits for calculation of the wraparound payment due to CHF, if any; and 3) the dollar amount of fee-for-service (“FFS”) and other payments received by CHF.

2. With respect to the PPS rates, CHF agrees with the Oversight Board’s methodology for calculating the PPS rate, as set forth in the *Objection of the Financial Oversight and Management Board for Puerto Rico to the Motion of Community Health Foundation of P.R. Inc. for Allowance and Payment of Administrative Expense* [ECF No. 21005] (the “Objection”) ¶¶ 12-14. The PPS rates for 2017 through 2019 are therefore agreed upon by the Parties. However, CHF proposed in its *Reply to Objection of the Financial Oversight and Management Board for Puerto Rico to the Motion of Community Health Foundation of P.R. Inc. for Allowance and Payment of Administrative Expense* [ECF No. 22400] (the “Reply”), that the applicable PPS rate be increased for years 2020 and 2021 in light of asserted changes to CHF’s scope of services. *See id.* ¶¶ 9-13; *see also Declaration of Nilda Santiago in Support of Reply to Objection of the Financial Oversight and Management Board for Puerto Rico to the Motion of Community Health Foundation of P.R. Inc. for Allowance and Payment of Administrative Expense* [ECF No. 22400-1] (the “Santiago”).

³ The “Motion” refers to *Community Health Foundation of P.R. Inc.'s Motion for Allowance and Payment of Administrative Expense* [ECF No. 18602].

Declaration”). The Commonwealth is in the process of evaluating CHF’s proposed increases to its PPS rate for 2020 and 2021 in light of changes to CHF’s scope of services. Accordingly, the PPS rates for 2020 and 2021 have not been resolved.

3. With respect to the number of eligible Medicaid visits, the Parties have not resolved certain discrepancies in the data that CHF has provided in support of its Motion. CHF has provided data relating to these visits to the Oversight Board, but, the Commonwealth’s position is that it has not confirmed those visit counts based on information it currently has available.

4. With respect to the FFS payments, the Parties have not resolved the discrepancy between CHF’s calculations as contained in the chart identified as Exhibit 5 of the Reply and the amounts contained in the documents attached as Exhibit F of the Objection as to FFS payments received by CHF.

II. What Documentation in Support of CHF’s Request for Payment, if any, Is Required by Either Party to Resolve the Outstanding Issues in the Motion

5. With respect to the PPS rates, the Oversight Board has requested, and CHF shall provide its audited financial statements for the years ended 2019 and 2020 and its financial statement for the year ended 2021,⁴ supporting their change in scope of services calculations, if any, beyond the documents attached to the Santiago Declaration.

6. With respect to visit counts, the Oversight Board requested, and CHF shall provide, 1) any available additional sources of visit data that are needed to provide complete support for the visits CHF claims, and 2) appropriate documentation evidencing that CHF’s visit data includes only Medicaid visits and that such visits are attributable only to CHF, rather than any of its affiliates.

⁴ CHF expects to provide an audited financial statement for the year ended 2021, on or before December 31, 2022.

7. With respect to FFS payments, the Oversight Board has requested, and CHF will provide, access to the records CHF obtained from the managed care organizations (“MCOs”) which were used to prepare the charts identified as Exhibit 4 and Exhibit 5 of the Reply demonstrating payments CHF has received from managed care organizations.

8. With respect to the data and information set forth in paragraphs 6 and 7, the provision of such information, if necessary, shall be subject to a confidentiality agreement appropriately restricting use of any confidential or personally identifiable information.

9. In order to verify the information provided by CHF, the Commonwealth intends to request additional documents and information from the MCOs with whom CHF contracts. The Commonwealth will provide these documents to CHF in accordance with the timetable set forth below.

III. Proposed Schedule and Methodology for the Exchange and Review of the Documentation, and the Timeline for the Issuance of any Determinations by the Puerto Rico Department of Health Necessary to Resolve the Issues Underlying the Motion

10. The Parties’ contemplated schedule and methodology for the exchange and review of the documentation is as follows:

- CHF shall provide responsive documents to the Oversight Board by November 9, 2022.
- To the extent that any data CHF provides may contain confidential or personally identifiable information, CHF, the Oversight Board, and/or any other necessary party will enter into an agreement to properly restrict access to any such information prior to exchange of any such data. CHF has furnished to the Oversight Board a draft Business Associate Agreement for its review. The Parties expect to have executed said agreement by November 4, 2022.

- The Puerto Rico Department of Health (“PRDOH”) and Puerto Rico Health Insurance Program (by its Spanish acronym, “ASES”) are in the process of requesting the documents and information discussed in paragraph 9 above. Following its receipt of such documents and information, PRDOH and ASES, as assisted by the Puerto Rico Fiscal Agency and Financial Authority, the Oversight Board, and/or their advisors, shall conduct a review of that information and the information provided by CHF and issue a determination as to whether it validates CHF’s supporting documents and determine what wraparound payment, if any, is owed to CHF. If PRDOH is unable to validate the documents or determine what wraparound payment is owed to CHF based on those materials, PRDOH shall state with specificity what additional documents must be provided and/or the reason for its inability to validate. Such analysis shall be provided by November 16, 2022.
- To the extent additional documents beyond those described in paragraph 9 are determined to be required and are in the possession or control of third parties (parties other than the Commonwealth or the Parties) involved in calculating any of the foregoing, the Commonwealth shall request such documents from the third parties as soon as possible after such determination is made.

IV. Adjournment of Hearing

11. In light of the above, the Oversight Board and CHF request that the hearing in connection with the Motion, which is currently scheduled to be heard on November 2, 2022, be adjourned to the Omnibus Hearing scheduled on December 14, 2022.

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Dated: October 28, 2022
San Juan, Puerto Rico

Respectfully submitted,

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